

HIGHLAND BOARD OF ZONING APPEALS
Minutes of the Meeting of
March 27, 2019

The Highland Board of Zoning Appeals met on March 27, 2019 in the meeting room of the Municipal Building, 3333 Ridge Road, Highland IN. Mrs. Murovic called the meeting to order at 6:30 p.m. The meeting opened with the Pledge of Allegiance led by Mr. Grzymiski.

ROLL CALL: Present were Board Members Mr. Martini, Mr. Grzymiski, Mr. Leep and Mrs. Murovic. Also present were Building Commissioner/Zoning Administrator, Mr. Ken Mika and Town Attorney, Mr. Jared Tauber. Absent was Mr. Helms.

MINUTES: The minutes of the February 27, 2019 meeting were approved as posted.

ANNOUNCEMENTS: The next meeting of the Board of Zoning Appeals to be April 24, 2019 at 6:30 p.m.

COMMUNICATIONS: None

Old Business: None

New Business: Public Hearing for Angela & Chris Ramirez, 3547 Wirth Road, Highland, IN, requesting a variance to replace a section of fence beyond build line. Property is on a corner. {HMC 18.05.060}(G)(5)(a) Permitted Obstruction in Required Yards. The following shall not be considered to be obstructions when located in the required yards specified: (a) In All Yards. Ordinary projections of skylights, sills, belt courses, cornices and ornamental features projecting not to exceed 12 inches; open terraces or decks not over four feet above the average level of the adjoining ground but not including a permanent roofed-over terrace or porch and not including terraces or decks which project into the required front yard by more than six feet from the front of the principal structure; awnings and canopies; steps which are necessary for access to a permitted building or for access to a zoning lot from a street or alley; chimneys projecting 18 inches or less into the yard; arbors, trellises and flagpoles; fences, screens, hedges and walls; provided, that in residential districts no fence or wall shall be located in the required front yard and no landscaped screen or hedge shall exceed three feet six inches in height if located in the front yard, and no fence, landscaped screen, hedge or wall shall exceed six feet in height if located in a side or rear yard. On a corner or reverse corner

lot, the side yard setback shall be the same as the front yard setback on adjoining lots; fences shall not be installed beyond this point. No fence, screen, hedge or wall shall interfere with line of sight requirements for local streets or intersections. No fence, screen, hedge or wall shall be constructed of material that may be described as rubble, cardboard, chicken wire, trees and brush, corrugated tin, utility poles, railroad ties, barbed wire, broken glass or electrified material. The design, location and construction of a fence or wall shall be approved by the building commissioner prior to the issuance of a building permit.

Mrs. Murovic confirmed with Mr. Tauber that the Proof of Publication was in order and he replied that he had reviewed the Proof of Publication and that it was in compliance with IC 3-5-1.

Mr. Chris Ramirez of 3547 Wirth Road stepped forward and introduced his wife, Angela and himself, then handed out photos and a letter to each of the board members. He then proceeded to read the letter, explaining that they were seeking a variance to replace the street corner side of their fence that had been damaged wind during a recent storm and was badly needing to be replaced. They had secured it to the deck as a temporary fix until they can replace the section. He stated that they wanted to replace the fence in its current location, but the ordinance prevented them from doing so due to the fact that their property is on a corner. He explained that the rest of the fence had been replaced years ago, but they did not replace this side at that time because the contractor could not obtain a permit for that particular section due to the ordinance. After the damage from high winds a month ago, they decided it was time and could not wait any longer to replace this last section. He stated that they had a hardship, and that was the fact that there was an air conditioner, a tree and a deck that all protrude beyond the build line on that side of their yard. He pointed out that none of those items had been placed there by the Ramirez's, but were in this location when they purchased the home nearly 19 years earlier. The photos he handed out showed the proximity of these items to the fence in its current location and also the distance of the fence to the stop sign on the corner. He stated that the stop sign was 30' from the fence, and that the fence is 13-1/2' from the street. He also stated that he felt the fence was not blocking anyone's view. He then pointed out that the fence was an eye-sore and a hazard.

Mrs. Murovic opened the discussion to the public. Hearing no remonstrance, she brought the discussion back to the board.

Mr. Martini asked Mr. Ramirez if they were planning to replace the fence in kind, in its exact location. Mr. Ramirez replied yes. He then asked what material it would be. Mrs. Ramirez answered that it would be cedar wood. He then asked if the street in the photo was Liable and that it was the east side, they confirmed this was correct. Mrs. Murovic asked if there was a survey of the property. Mrs. Ramirez replied she thought there was, but it had not been asked for. Mr. Leep pointed out that it appeared from the photos that

there was still room for them to come in a little with the fence location without blocking access to the air conditioner and deck. Mrs. Ramirez stated that there were NIPSCO lines that were near the property, but she was unsure of how close they were. Mrs. Murovic pointed out that they wouldn't install the posts until they called 811 to have it marked, so the danger of any lines nearby would be taken care of. She then continued that the board often have these types of hearings come before them and that they really like to see the fence off the sidewalk a few feet, with a 45 degree angle at the driveway. She explained that the main reason behind this was safety and that the sidewalk maintenance would be easier. Mr. Ramirez said they had already looked at the 45 degree angle and would be willing to do that.

Mrs. Murovic requested that the plat be provided if there was one on file by the Town of Highland; after this was researched, only a GIS aerial view of the property was available and used during the previous permit application for the rest of the fence, so the board members viewed the GIS.

Mr. Leep stated that in general, they were not allowing people to put fences right on the sidewalk and that it could be a hindrance for someone using the sidewalk. Mr. Ramirez asked for an example of how this would occur. Mrs. Murovic stated that if a child was riding a bicycle, it could be a hindrance.

Mr. Mika stated that it was a safety issue, if a child was riding a bike and the fence was right on the sidewalk the handle bars could be clipped and it could cause an accident, causing the child to be hurt. He also stated that there could be an obstructed view, depending on which side their driveway and garage faced. A passer-by might not notice a car pulling out until it was too late, which was another safety issue.

The Ramirez's again pointed out that they felt they had a hardship due to the air conditioner, the tree and the deck that protruded beyond their build line.

Mrs. Murovic stated that the board heard what they were saying, but felt there could be a decision reached to satisfy both sides and that they were willing to work with the Ramirez's.

Mr. Martini stated that he didn't feel that moving the fence in by 2' would affect their yard dramatically. He then motioned to grant the variance for the petitioners, with a 2' setback from the sidewalk on the east side, along with a 45 degree cut out on the northeast corner, going into the garage, of 3' x 3'. Mr. Leep seconded and it unanimously passed with a 4 – 0 roll call vote.

BUSINESS FROM THE FLOOR: None

ADJOURNMENT: Motion: Mr. Grzyski Second: Mr. Martini Time: 6:48 p.m.